

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 17, 2008

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2007AP495

Cir. Ct. No. 2007SC441

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

MOHAMMED SANJAK,

PLAINTIFF-RESPONDENT,

V.

EVELIO DUARTE-VESTAR,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Dane County:
STUART A. SCHWARTZ, Judge. *Affirmed.*

¶1 VERGERONT, J.¹ This is an eviction action initiated by Mohammed Sanjak against Evelio Duarte-Vestar in which Sanjak claims that Duarte-Vestar failed to pay rent when due. The circuit court concluded that

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2005-06). All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

Duarte-Vestar had failed to pay the rent due and entered a judgment of eviction. Duarte-Vestar appeals. We affirm.

¶2 The circuit court had before it the evidence of the lease signed by Duarte-Vestar and Sanjak's testimony that Duarte-Vestar had failed to pay any rent for the months of January and February 2007. The court also heard Duarte-Vestar's testimony that he did not owe rent because Sanjak owed him money that properly was an offset against the rent. Duarte-Vestar did not have any documentary evidence showing that Sanjak owed Duarte-Vestar any money and Sanjak denied that he owed Duarte-Vestar any money. The court determined that Duarte-Vestar had not paid the rent due for January and February and entered an order of eviction.²

¶3 Duarte-Vestar cites a number of constitutional and statutory provisions that, he claims, were violated by the circuit court. However he does not develop an argument with respect to any. He also appears to assert that there is an error in the date of the lease, but he does not explain how that is relevant to the court's determination that he had not paid the rent due.

¶4 It appears that Duarte-Vestar is asserting that the circuit court erred because, just before rendering its decision, it stated: "I don't need anymore information." However, the court did not say this to Duarte-Vestar but to Sanjak; apparently Sanjak was attempting to show the court additional evidence that in the

² The court did not determine the amount of rent past due. The lease provided that Duarte-Vestar would be given a monthly credit of \$200 per month against the \$600 monthly rent in exchange for custodial and maintenance work. The parties disagreed whether Duarte-Vestar had done the work and thus was entitled to the credit. However, it was unnecessary for the court in the eviction proceeding to determine the amount of rent due.

court's view did not relate to the issue of whether the rent had been paid. Duarte-Vestar has not pointed to any place in the transcript where the court prevented him from presenting evidence, nor does he explain what additional evidence he wanted to present.

¶5 When a circuit court sits as a fact finder, it is the circuit court's role to assess the credibility of witnesses, and we accept these credibility determinations. *See Fidelity & Deposit Co. v. First Nat. Bank of Kenosha*, 98 Wis. 2d 474, 484-85, 297 N.W.2d 46 (Ct. App. 1980). In this case, Sanjak and Duarte-Vestar presented conflicting testimony on whether Sanjak owed Duarte-Vestar money and the court chose to credit Sanjak's testimony rather than Duarte-Vestar's. We may not reverse this credibility determination and Duarte-Vestar has presented no other basis for reversing the circuit court. Accordingly, we affirm the judgment of eviction.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

